

CIVIL COURT OF THE CITY OF NEW YORK  
COUNTY OF NEW YORK

-----X INDEX NO.: 033994 CVN 2007

GARY S. FISH, ESQ.,

PLAINTIFF,

-against-

PLAINTIFF'S FIRST AMENDED  
COMPLAINT AS OF RIGHT  
(CPLR SECTION 3025)

DEPARTMENT OF VETERAN AFFAIRS,

DEFENDANT.

-----X

Plaintiff Pro Se sets forth the below as his First Amended Complaint as of right, pursuant to CPLR Section 3025, insofar as the subject summons and complaint was filed in Court on June 29, 2007, served on defendant on July 6, 2007, per the attached affidavit of service, and defendant has not yet responded to said lawsuit.

AS AND FOR A FIRST CAUSE OF ACTION:  
(VIOLATION OF SECTION 349 OF THE GENERAL BUSINESS LAW-UNFAIR AND  
DECEPTIVE PRACTICES ACT)

1. On April 24, 2007, and at all times relevant herein, the plaintiff, a duly licensed attorney admitted to practice law in the State of New York, and in the United States District Court, Southern District of New York, had and has a principal place of business located at 15 Maiden Lane, Suite 1108, New York, New York 10038.
2. On April 24, 2007, and at all times relevant herein, on information and belief, the defendant had and has a principal place of business located at 423 East 23<sup>rd</sup> Street, New York, New York 10010.
3. From on or about 2005 through on or about December 2006, the plaintiff was the attorney for Jeffrey Baum in an, inter alia, breach of contract case against the Department of Veteran

Affairs, Case #: 05 CV 6361 (RJH), before The Honorable Richard J. Holwell, United States District Court, Southern District of New York, 500 Pearl Street, NY, NY 10007. Documents pertaining to plaintiff pro se's representation of said party are attached hereto.

4. On or about December 2006, plaintiff pro se settled the above captioned matter, with the consent of his client, with the attorney for the Department of Veteran Affairs, Assistant United States Attorney Peter M. Skinner, Esq., 86 Chambers Street, 3<sup>rd</sup> Floor, NY, NY 10007, which settlement was in the amount of \$2,500.00 (Two Thousand five Hundred Dollars and Zero Cents.)
5. Further to said settlement, and subsequent to the plaintiff providing to the Office of the United States Attorney a stipulated settlement agreement and Release, the Department of Veteran Affairs made a wire transfer to the account of Gary S. Fish in the amount of \$2,500.00 (Two Thousand Five Hundred Dollars and Zero Cents), in full and final resolution of the Baum case. Said payment represented the only monies received and paid in settlement of the case.
6. On or about April 24, 2007, the defendant wrote to the plaintiff pro se, stating that the \$2,500.00 payment was made in error, and instructing plaintiff pro se, that if he did not make reimbursement of said amount, then the monthly administrative cost of said collection fee would be added to plaintiff pro se's "debt". As attached hereto, in a response dated 4-24-07, plaintiff pro se objected to said letter, and disputed that any debt was in fact owed to defendant.
7. On or about May 31, 2007, the defendant once again wrote to the plaintiff pro se, now stating that the owed "debt" was in the amount of \$2,509.98. Once again, plaintiff pro se objected to in writing to owing said debt, and placed defendant on actual notice that any further communications regarding same would be deemed a Section 349 Unlawful and Deceptive

Business Practice. A copy of said plaintiff pro se response is attached hereto.

8. On June 28, 2007, plaintiff pro se, for the third time, received a letter from defendant, stating that plaintiff pro se, "owed: not only the sum of \$2,500.00, but also owed to defendant the sum of \$16.94 in interest and \$3.30 in administrative costs, for the total amount allegedly owed to the defendant by plaintiff pro se in the amount of \$20.24.

9. From on or about April 2007 up to and including June 2007, and at all times relevant herein, defendant was a business organization and/or entity engaged in business, trade and/or commerce in the furnishing of services in the State of New York.

10. Said defendant's attempted enforcement of the subject debt herein against the plaintiff pro se was and is an unlawful deceptive act and/or practice insofar as said defendant knew and/or should have known that said debt had no basis in fact and/or in law.

11. Defendant Department of Veteran Affairs knowingly and/or intentionally violated Section 349 of the Deceptive Acts and Practices Law, and is liable therefor.

AS AND FOR A SECOND CAUSE OF ACTION:  
(VIOLATION OF SECTION 349 OF THE GENERAL BUSINESS LAW- UNFAIR AND  
DECEPTIVE PRACTICES ACT)

12. Plaintiff pro se herewith repeats, restates and realleges Paragraphs 1-11 herein above.

13. At all times relevant herein, and as attached hereto, plaintiff pro se, returned to defendant United States Treasury Check No.: 2221 79606826 in the amount of \$2,500.00, made payable to J. Baum. At all times herein, defendant had claimed in prior communications herein above referenced, that plaintiff pro se had converted said monies to his own use and possession, which defendant contention is patently false.

14. After plaintiff pro se had returned the above referenced check to the defendant, defendant,

per the enclosed July 19, 2007 envelope, re-submitted to plaintiff pro se the very same check it wrongfully claimed plaintiff pro se had converted to his own use and possession!

15. Defendant wrongfully and intentionally engaged in an unlawful and deceptive business practice pursuant to Section 349 of the General Business Law, in that: (a) While the Mr. Hess notation on the check states that the check belongs to Mr. Baum, the defendant mailed the subject United States Treasury Check to the plaintiff pro se, knowing that the subject law case was over, and there was therefor no reason for said check to be mailed back to plaintiff pro se; (b) the defendant intentionally mailed said check to plaintiff pro se, although the beneficiary of said check is J. Baum, to whom said check should have been mailed; © the defendant knowingly and intentionally mailed said check to plaintiff pro se on July 19, 2007, having claimed in three (3) previous communications that plaintiff pro se was not entitled to said check, causing plaintiff pro se to incur additional administrative costs, interest, and civil penalties with the defendant, which will long continue due to defendant's refusal to accept the very check they claimed they, and not, plaintiff pro se, was entitled to!

16. As a result of defendant's wilful and intentional and egregious statutory violation as so noted, plaintiff pro se has incurred and will incur reasonable attorney fees and costs.

**AS AND FOR A THIRD CAUSE OF ACTION:  
(INTERPLEADER)**

17. Plaintiff pro se herewith repeats, restates and realleges Paragraphs 1-16 herein above.

18. In light of the foregoing, and due to defendant's present and wilful and continuous refusal to accept reimbursement of the very same check that it had previously sought from counsel, and for which defendant has falsely accused plaintiff pro se of converting to his use and

possession and/or ownership, plaintiff hereby respectfully seeks a judgment of interpleader to pay said check into Court, and to resolve the actually existing controversy with respect to same.

WHEREFORE, plaintiff prays for relief as follows:

AS AND FOR EACH OF THE FIRST AND SECOND CAUSES OF ACTION:

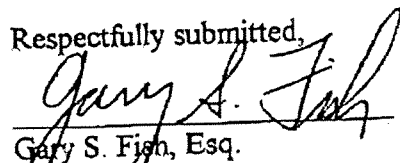
1. For damages in the amount of \$1,000.00 (One Thousand Dollar and Zero Cents);
2. For reasonable attorney fees and costs;
3. For disbursements; and
4. For any other just and equitable relief deemed proper by the Court.

AS AND FOR THE THIRD CAUSE OF ACTION:

1. For a judgment of interpleader, to pay said subject \$2,500.00 United States Treasury Check into Court, in order to resolve the presently existing controversy with respect to same;
2. For reasonable attorney fees and costs; and
3. For any other just and equitable relief deemed proper by the Court.

DATED: NEW YORK, NEW YORK  
JULY 20, 2007

Respectfully submitted,



Gary S. Fish, Esq.

Plaintiff Pro Se

Attorney for the Plaintiff

15 Maiden Lane, Suite 1108

NY, NY 10038; (212) 964-5100

CIVIL COURT OF THE CITY OF NEW YORK

COUNTY OF NEW YORK

GARY FISH, ESQ.

Plaintiff(s)

- against -

DEPARTMENT OF VETERAN AFFAIRS

Defendant(s)

Index #: 033994 CVN 2007

Purchased: June 29, 2007  
Date Filed:

## AFFIDAVIT OF SERVICE

STATE OF NEW YORK: COUNTY OF NEW YORK ss:

DAVID GOLDBERG BEING DULY SWORN DEPOSES AND SAYS DEPONENT IS NOT A PARTY TO THIS ACTION AND OVER THE AGE OF EIGHTEEN YEARS AND RESIDES IN THE STATE OF NEW YORK.

That on July 6, 2007 at 12:16 PM at

423 EAST 23RD STREET  
NEW YORK, NY 10010

deponent served the within true copy of the SUMMONS &amp; VERIFIED COMPLAINT on DEPARTMENT OF VETERAN AFFAIRS, the defendant/respondent therein named.

BY LEAVING A TRUE COPY WITH MS. YVONNE MORRIS GENERAL-AGENT, BEING AUTHORIZED TO ACCEPT LEGAL PAPERS STATED.

Deponent further states that he describes the person actually served as follows:

Sex	Skin Color	Hair Color	Age (Approx.)	Height (Approx.)	Weight (Approx.)
FEMALE	BROWN	BLACK	50	5'1	130
GLASSES					

The Summons Served had endorsed thereon the Index number and date of filing.

FILED  
NEW YORK COUNTY  
CIVIL COURT

Sworn to me on: July 9, 2007

Linda Forman  
Notary Public, State of New York  
No. 01F05031305  
Qualified in New York County  
Commission Expires August 1, 2010Robin M. Forman  
Notary Public, State of New York  
No. 01F06125415  
Qualified in New York County  
Commission Expires April 18, 2009Larry Yee  
Notary Public, State of New York  
No. 01YE5015682  
Qualified in New York County  
Commission Expires July 26, 2009DAVID GOLDBERG  
License #: 916033  
Docket #: 488179

CIVIL COURT OF THE CITY OF NEW YORK  
COUNTY OF NEW YORK

Index No.

GARY S. FISH, ESQ.

Plaintiff,

Summons

-against-

Plaintiff's Address:

15 Maiden Lane, Suite 1108  
New York, New York 10038

DEPARTMENT OF VETERAN AFFAIRS,

Defendant.

Basis of Venue:

Residence of parties, Situs of  
Wrongdoing

State of New York  
Civil Court, New York County  
111 Centre Street  
New York, New York 10013  
(212) 374-4646

summoned to appear in the Civil Court of the City of New York,  
office of the Clerk of the said Court at 111 Centre Street, New York,  
New York and State of New York, within the time provided by law as  
answer to the annexed complaint with the Clerk; upon your failure to  
en against you for the sum of \$1,000.00 with interest thereon from the  
ther with the costs of this action.

ate 06/29/07  
ransaction # 48100

y Receipt # 916439  
alendar #

33994CV2007  
IS - DVA

k

total Due:	45.00
total Amount 1:	45.00 ATTORNEY C
total Amount 2:	
total Received:	45.00
aliver Costs :	
aliver Reason :	

hange

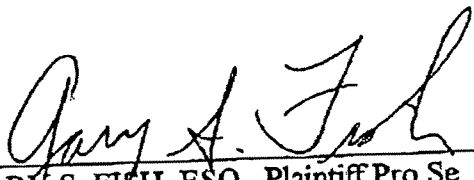
Check # 1103

Cashier: SW  
Terminal: AB31CV\$LTA5212:

Docket entries  
SUMMONS AND COMPLAINT  
FILED

45.00

if this summons is served by its delivery to you personally within the City of New York, you  
TWENTY days after such service, or  
if this summons is served by delivery to any person other than you personally, or is served outside the City of New York,  
or by publication, or by any means other than personal delivery to you within the City of New York, you are allowed THIRTY days  
after proof of service thereof is filed with the Clerk of this Court within which to appear and answer.

  
GARY S. FISH, ESQ., Plaintiff Pro Se  
Attorney for the Plaintiff  
15 Maiden Lane, Suite 1108  
New York, NY 10038  
(212) 964-5100

06/29/2007  
FILED N.Y. County, NY  
033994 CVN 2007



GARY S. FISH  
Attorney at Law  
15 Maiden Lane, Suite 1108  
New York, New York 10038  
(212) 964-5100  
FAX (212) 349-1887

Admitted to Practice:  
New York, Connecticut,  
Pennsylvania and California

June 23, 2006

✓ BY FAX (212) 805-7948  
The Honorable Richard J. Holwell  
United States District Court Judge  
United States District Court  
Southern District of New York  
500 Pearl Street, Chambers  
New York, New York 10007

Re: Baum v. Department of Veteran Affairs  
No.: 05 CV 6361 (RJH); GSF Request for Adjournment of  
June 29, 2006 conference, and for thirty (30) day extension  
of time to complete discovery, from June 30, 2006 to July  
30, 2006 (GSF letter request was hand delivered to U.S.  
Marshal on June 19, 2006)

Dear Judge Holwell,

Please be advised that I am the attorney for the plaintiff in the above matter. My client was  
deposed on April 24, 2006. On May 9, 2006 I served by way of first class mail postage prepaid  
Plaintiff First Request for Admissions. Assistant United States Attorney Peter M. Skinner and  
myself tentatively scheduled a deposition of the defendant on June 20, 2006. Since I had not  
received on June 19, 2006 a response to my Request for Admissions, we agreed to adjourn the  
June 20, 2006 deposition date.

On or about June 20, 2006, Mr. Skinner informed the Court that he had responded to my  
Request for Admissions. Attached hereto are two (2) pages of his "responses", which consists of  
essential boilerplate objections to my Requests. I advised Mr. Skinner, per the attached June 20,  
2006, that I reserved the right to move to determine the sufficiency of his responses. I respectfully  
request the above extension for the above reasons.

Very truly yours,

*Gary S. Fish*  
Gary S. Fish (GSF 6551)

GSF:wp

✓ cc: BY FAX (212) 637-2730  
Peter M. Skinner, Esq., AUSA



C. The Government objects to the RFAs to the extent that they purport to require the disclosure of information beyond the scope required by Rule 36 of the Federal Rules of Civil Procedure.

**SPECIFIC RESPONSES AND OBJECTIONS**

Subject to the foregoing general reservations and objections, the Government responds to the specific RFAs as follows:

**Request to Admit No. 1**

Please admit that it was the policy of the Department of Veterans Affairs, New York Harbor Healthcare System effective in March 2005 that a probationary employee would receive a letter of termination at least fourteen (14) calendar days prior to the end of the probationary period.

**Response to Request to Admit No. 1**

The Government objects to this request as vague and ambiguous. Subject to the Government's general and specific objections, the New York Harbor Healthcare System's policy with respect to probationary employees is memorialized in a document titled "HEALTHCARE SYSTEM POLICY NO: 05-10," which was attached the Plaintiff's Complaint. The text of this document speaks for itself.

**Request to Admit No. 2**

Please admit that the policy of the Department of Veterans Affairs, New York Harbor Healthcare System effective in March 2005 that a probationary employee would receive a letter of termination at least fourteen (14) calendar days prior to the end of the probationary period, was memorialized in Healthcare System Policy No. 05-10.

**Response to Request to Admit No. 2**

The Government objects to this request as vague and ambiguous. Subject to the Government's general and specific objections, the New York Harbor Healthcare System's policy with respect to probationary employees is memorialized in a document titled "HEALTHCARE

SYSTEM POLICY NO: 05-10, which was attached the Plaintiff's Complaint. The text of this document speaks for itself.

Request to Admit No. 3

Please admit that the attached Department of Veterans Affairs, New York Harbor Healthcare System, Healthcare System Policy No.: 05-10 dated May 2003 with a May 2006 expiration period, is a true and correct copy of the policy in effect as of March 2005 pertaining to the then termination of probationary employees.

Response to Request to Admit No. 3

The Government objects to this request as vague and ambiguous. Subject to the Government's general and specific objections, denies. The document attached to Plaintiff's requests for admission contains underscores that are not part of the original document.

Request to Admit No. 4

Please admit that Jeffrey Baum was a probationary employee of the Department of Veterans Affairs during March 2005.

Response to Request to Admit No. 4

Subject to the Government's general objections, Jeffrey Baum was a probationary employee of the Department of Veterans Affairs until he was terminated effective March 18, 2005.

Request to Admit No. 5

Please admit that Jeffrey Baum would have completed his one (1) year probationary period on March 21, 2005.

Response to Request to Admit No. 5

The Government objects to this request as vague and ambiguous. Subject to the Government's general and specific objections, Jeffrey Baum's one-year probationary period ran from March 21, 2004 through March 21, 2005.

GARY S. FISH  
Attorney at Law  
15 Maiden Lane, Suite 1108  
New York, New York 10038  
(212) 964-5100  
FAX (212) 349-1887

Admitted to Practice:  
New York, Connecticut,  
Pennsylvania and California

June 20, 2006

✓ BY FAX (212) 637-2730

Peter M. Skinner, Esq., Assistant United States Attorney  
Office of United States Attorney  
Southern District of New York  
86 Chambers Street  
New York, New York 10007

Re: Baum v. Department of Veteran Affairs  
Case #: 05 CV 6361 (RJH)

Defendant June 20, 2006 Objections to Plaintiff Request for  
Admissions Deemed Insufficient under FRCP Rule 36

Dear Mr. Skinner,

I have today received defendant's above noted objections, which are deemed insufficient. I reserve the right to move to determine the sufficiency of these objections before the Court.

All rights hereunder are reserved.

Very truly yours,

Gary S. Fish

GSF:wp

## NOTICE OF RIGHTS AND OBLIGATIONS

**DEBTS OWED THE UNITED STATES GOVERNMENT:** The law requires the Department of Veterans Affairs (VA) to collect debt owed the government. When the individual or corporation is entitled to payments, the VA is required to collect debt by withholding future payments until the debt is paid, except as explained below. Any current or future VA payments or other payments made under any law administered by the VA may be withheld.

**NOTE:** Whenever this letter states that you have a period of time to take some action or to notify us, the period of time begins to run from the date appearing on the front of this letter.

**RIGHT TO DISPUTE THE EXISTENCE OR AMOUNT OF THE DEBT:** If you tell us in writing within 30 days that you believe that you do not owe this debt or that the amount of the debt is incorrect, we will not withhold any current or future federal salary, lump sum or retirement payments until we confirm that you are indebted and the amount is correct or we determine that the delay required to resolve the dispute will jeopardize our ability to collect the full amount of the debt. You should explain to the extent you can why you believe you do not owe the debt or why the amount is incorrect.

**ADMINISTRATIVE COST OF COLLECTION FEES:** The monthly administrative cost of collection fee will not be added to your debt if, within 30 days, full payment of the debt is received or an acceptable repayment plan is worked out. If an installment repayment plan is worked out and any installment is not received by the due date, the monthly administrative cost of collection fee will thereafter be charged for the life of the debt. Other costs of collection may also be added to the debt if additional actions become necessary.

**PENALTY CHARGES:** The monthly penalty charge will not be added to your debt if, within 90 days, full payment of the debt is received or an acceptable repayment plan is worked out. If an acceptable repayment plan is agreed upon and you default on that agreement, 90 days after default we will begin assessing a penalty charge.

## Detailed Description:

DATE	DESCRIPTION	QUANTITY	COST	PER	AMOUNT
04/19/2007	An erroneous payment was made to your company on February 14, 2007 for Judgement Claim #6892 (Jeffrey Baum) in the amount of \$2,500.00; check #79606826 dtd 2/14/07.	1	2500.0000	EA	2500.00

TRANS CODE/NUM: PV 630C7807702 TRAVEL ADV NUM:

LINE: 001 CHECK/TRACE NUM: 79606826

CONFIRM DATE: 02 14 07 D.O: 220

PAYMENT AMT: 2,500.00 CAN IND: N

4-24-07

You better believe

I dispute this debt!!!!

This \$2,500.00 was wire transferred to my attorney to be acct by Assistant U.S. Attorney Peter Skinner, representing settlor in full of the case Jeffrey Baum J. Dept. of

Veteran Affairs

then pending before

Federal Judge William Parker  
 U.S. District Court, SDNY, 500 Fed St, NY, NY 10007  
 I owe you nothing.  
 -Gary A. Fish

Department of Veterans Affairs  
DEPT OF VETERANS AFFAIRS  
AGENT CASHIER (04H)  
423 E 23RD STREET  
NEW YORK, NY 10010

In Reply Refer To:  
File No./SEAN: 630-K70420L

GARY S FISH Esq  
15 MAIDEN LANE  
SUITE 1108  
NEW YORK, NY 10010

We have written to you previously about your indebtedness. The amount due is now \$2,500.00. It is now urgent that you contact this office within five days from the date of this letter regarding settlement of this debt.

Finance Officer.

Detailed Description:

DATE	DESCRIPTION	QUANTITY	COST	PER	AMOUNT
04/15/2007		1	2500.0000	EA	2500.00

An erroneous payment was made to your company on February 14, 2007 for Judgement Claim #6892 (Jeffrey Baum) in the amount of \$2,500.00; check #79606826 dtd 2/14/07.

TRANS CODE/NUM: FV 630C7807702 TRAVEL ADV NUM:  
LINE: 001 CHECK/TRACE NUM: 79606826  
CONFIRM DATE: 02 14 07 D.O.: 220  
PAYMENT AMT: 2,500.00 CAN IND: N

VENDOR CODE: MISON  
VOUCHER NO: 630C7807702  
NAME: J. BAUM  
TRAVEL ADV NO:  
ADDR1: C/O GARY S. FISH  
NO CHK DISB: N  
ADDR2: 15 MAIDEN LANE, SUITE 1108  
D.O.: 220  
ADDR3:

TRANS CODE: FV

USAG, SDNY  
Fed  
Court

5-31-07  
Stop bothering  
me with this  
nonsense!! I  
wrote to you  
previously that the  
\$2,500.00 repeated  
Baum v. Dept. of  
Vet. Affairs settled

The Judge was William  
Pauley III. Assistant  
US Atty. was Peter  
Skinner Esq, 86 Chateau  
St, 3rd fl, NY NY 10001

You are violating Sec. 349 of  
NY Gen. Bus Law + are engaging in  
unfair & deceptive practice. If I hear from you again, I will sue you.

Department of Veterans Affairs  
 DEPT OF VETERANS AFFAIRS  
 AGENT CASHIER (04W)  
 423 E 23RD STREET  
 NEW YORK, NY 10010

In Reply Refer To:  
 File No./SSAN: 630-K70420L

GARY B FISH Esq  
 14 MAIDEN LANE  
 SUITE 1108  
 NEW YORK, NY 10038

JUN 20, 2007

We have written to you on several occasions about your debt of \$2820.24. This amount consists of \$2200.00 principal, \$18.94 interest and \$1.30 administrative cost of collection fees. It is now urgent that you contact this office immediately regarding settlement of the debt. You may contact us at (718) 636-6800 x3042 between 9AM-4:30PM.

We have authority to accept a lesser amount in full settlement of your debt. Careful consideration will be given to an offer of any reasonable amount in relation to your financial status. A compromise offer will not be considered unless accompanied by a properly completed VA Form 4-5655, Financial Status Report. VA Form 4-5655 is enclosed for this purpose along with a self-addressed envelope.

**INVOLUNTARY COLLECTION:** The Department of Veterans Affairs (VA) is required under 31 U.S.C., chapter 37, subchapter II, to collect debts owed to the government. Since your debt is over 60 days old, unless action is taken to satisfy this debt within 30 days your debt may be referred for involuntary collection action. This means any current or future federal salary, lump sum or retirement payments, insurance dividends, or other payments that are made to you under any law administered by VA may be withheld to pay your delinquent debt. Your debt may be referred to the Department of Treasury for collection and/or administrative offset. Please read the attachment for specific details regarding this process as well as the rights you have under this process. Any of these actions may result in processing fees being charged to you. Payment checks that are canceled because they have not been cashed within one year may be applied to offset the indebtedness and not be reissued. Other involuntary collection actions may include the reporting of your delinquent account to credit reporting agencies 60 days from the date of this letter.

Your debt may be referred to the United States Attorney for appropriate legal action within 30 days from the date of this letter. Unless, you take action to pay your debt in full, make satisfactory arrangements to pay by installments or submit a reasonable compromise offer, prior to the expiration of the 30 days. This referral will result in a one-time administrative charge to you of \$288.46. Court action may result in the addition of U.S. Marshal fees and court costs.



**Department of  
Veterans Affairs**

**MEDICAL CENTER**

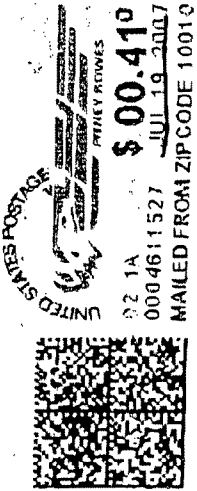
423 East 23rd St.  
New York, New York 10010



**OFFICIAL BUSINESS**

Penalty for Private Use, \$300

1630/0000



*Mr. L. Bauh  
c/o Gary S. Fish  
15 Warden Lane, Suite  
1108  
New York, NY 10038-4003*



Department of the Treasury  
Financial Management Service  
Philadelphia Financial Center  
PO Box 51321  
Philadelphia, PA 19115-6321

IDENTIFICATION NUMBER 07TM07021240100000076

M070212401

AMOUNT OF PAYMENT \$2,500.00

J. BAUM  
C/O GARY S. FISH  
15 MAIDEN LANE, SUITE 1108  
NEW YORK NY 100384003

PAYMENT IDENTIFICATION DATA

INV REIMBURSEMENT

2,500.00

United States Treasury		A 468,581,120	
02 14 07 23	AUSTIN, TEXAS	2221 79606826	2221 79606826
2221 79606826	36001200 M2 36	M070212401	
Pay to the order of	J. BAUM C/O GARY S. FISH 15 MAIDEN LANE, SUITE 1108 NEW YORK NY 100384003		\$***2500*00
PER ENCLOSED MAILING NOTICE		VOID AFTER ONE YEAR	
00000005181 7960682621 010267			

Mr. Fish this check  
belongs to Mr. Baum  
-212.807.7229 (Residential)  
-718.836.6600 or 1377  
Mr. Hess

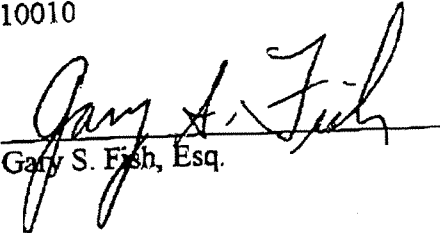
CS  
010

### AFFIRMATION OF SERVICE

I, Gary S. Fish, Esq., an attorney duly licensed to practice law before the Courts of the State of New York, hereby affirm under penalties of perjury as follows:

1. I am the plaintiff pro se in the subject case.
2. That on July 20, 2007, I served by way of first class mail postage prepaid in a U.S. Postal depository, addressed to the last known address of the defendant pro se, Plaintiff First Amended Complaint as of right (pursuant to Section 3025 of the CPLR), and all attachments and exhibits pertaining thereto, to the defendant pro se, who was served on July 6, 2007 with the attached summons and complaint, as follows:

Department of Veteran Affairs, Defendant Pro Se, 423 East 23<sup>rd</sup> Street, New York, New York  
10010

  
Gary S. Fish, Esq.